

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/16/2016	(3) CONTACT/PHONE Airlin M. Singewald, Senior Planner / (805) 781-5198	
(4) SUBJECT Hearing to consider the extension of the Agricultural Ponds Interim Zoning / Urgency Ordinance No. 3326 pursuant to Sections 25123 and 65858 of the California Government Code for a period of up to 22 months and 15 days. Ordinance No. 3326 prohibits the approval of new agricultural ponds and reservoirs in the inland area (does not include the Coastal Zone) of the unincorporated County under the Alternative Review Program and establishes application content and review criteria for agricultural ponds and reservoirs; exempt from CEQA. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> 1. Hold a hearing to consider the extension of the Agricultural Ponds Interim Zoning/Urgency Ordinance No. 3326 for a period of 22 months and 15 days from the expiration date (August 29, 2016) through and until July 14, 2018 by 4/5 vote. 2. Provide direction on a permanent Agricultural Ponds Ordinance. 			
(6) FUNDING SOURCE(S) Department budget	(7) CURRENT YEAR FINANCIAL IMPACT TBD	(8) ANNUAL FINANCIAL IMPACT TBD	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>125 min.</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input type="checkbox"/> N/A N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>June 21, 2016 (Board direction).</u> <u>July 15, 2016 (Ordinance adoption)</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) All Districts			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Airlin M. Singewald, Senior Planner / (805) 781-5198

VIA: Bill Robeson, Deputy Director / Planning and Building

DATE: 8/16/2016

SUBJECT: Hearing to consider the extension of the Agricultural Ponds Interim Zoning / Urgency Ordinance No. 3326 pursuant to Sections 25123 and 65858 of the California Government Code for a period of up to 22 months and 15 days. Ordinance No. 3326 prohibits the approval of new agricultural ponds and reservoirs in the inland area (does not include the Coastal Zone) of the unincorporated County under the Alternative Review Program and establishes application content and review criteria for agricultural ponds and reservoirs; exempt from CEQA. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Hold a hearing to consider the extension of the Agricultural Ponds Interim Zoning/Urgency Ordinance No. 3326 for a period of 22 months and 15 days from the expiration date (August 29, 2016) through and until July 14, 2018 by 4/5 vote.
2. Provide direction on a permanent Agricultural Ponds Ordinance.

DISCUSSION

Background

On July 15, 2016, your Board adopted Interim Zoning/Urgency Ordinance No. 3326 to prohibit the approval of new groundwater filled agricultural ponds and reservoirs under the Alternative Review Program and establishes application content and review criteria for agricultural ponds and reservoirs.

Discussion

The hearing today is to consider extending the ordinance for a period of up to 22 months and 15 days from August 29, 2016 (Attachment 1). Your Board also has the option of considering extending the urgency ordinance for a period of 10 months and 15 days then considering a final one year extension prior to expiration. Any action to extend the current urgency ordinance requires a 4/5 vote of your Board.

If the interim zoning/urgency ordinance is extended, staff will begin work on a permanent ordinance with the intent of allowing consideration by your Board prior to the expiration of the urgency ordinance. If your Board chooses to not pursue an extension of the urgency ordinance, your Board may still have the option to give staff direction to develop a permanent ordinance for future consideration and to define key policy components. A full discussion of staffing impacts and effects on other currently prioritized projects from this assignment will be addressed in the priorities discussion presented to your Board in October.

Review Process for Agricultural Ponds Prior to Urgency Ordinance

Prior to adoption of the urgency ordinance, applicants for agricultural ponds had the option to process a grading permit with the County Department of Planning and Building (the County) or to request processing with a Resource Conservation District (RCD) under the Alternative Review Program. Agricultural ponds and reservoirs under one-acre foot in storage capacity are exempt from permitting requirements.

Agricultural ponds processed with the County require major grading permits, which are subject to environmental review under the California Environmental Quality Act (CEQA), but do not require notification to adjacent landowners or public hearings. As part of the CEQA review process, the County will typically require a water impact study and will require projects in an LOS III groundwater basin to offset evaporative water loss on a 1:1 basis. On past projects, this offset has been achieved by removing onsite irrigated crops or through participation in the County's agriculture offset program (for projects in the Paso Robles Groundwater Basin).

Again, prior to the urgency ordinance, the Alternative Review Program allows a local RCD to perform the review, approval, and inspection duties in lieu of the County. There are two RCDs in the County, Upper Salinas-Las Tablas (north of the Cuesta Grade and Morro Bay) and Coastal San Luis (south of the Cuesta Grade, including the coast from Morro Bay southward). Each RCD is operated independently and is able to define its own procedure for Alternative Review. The County does not dictate what plans need to be submitted, the timing of the review, or the final inspection process – these are all decisions made by the RCD.

Steps for proceeding with a project under Alternative Review:

- Owner files the application with the County
- Staff reviews the application for eligibility (agricultural ponds are eligible for processing under Alternative Review)
- Staff refers the project to the Agricultural Commissioner's Office for concurrence that the application is related to agriculture
- The application is authorized for Alternative Review and forwarded to the RCD
- The RCD accepts the application into their permitting system

Since the RCD is the permitting authority under the Alternative Review Program, they become the Lead Agency responsible for making an environmental determination under CEQA.

Review of Agricultural Ponds under the Urgency Ordinance

As of July 15, 2016, when the urgency ordinance took effect, applicants for groundwater filled agricultural ponds no longer have the option to process their project under the Alternative Review Program. As a result, agricultural pond projects over one-acre foot in capacity would require major grading permit approval and CEQA review with the County. This allows the County to ensure that water supply impacts associated with agricultural ponds are adequately evaluated and that appropriate mitigation is applied to minimize impacts to groundwater supplies and neighboring wells.

The urgency ordinance also establishes a protocol for evaluating water supply and well interference impacts during CEQA review for groundwater filled agricultural ponds and reservoirs. The urgency ordinance would require applications for new groundwater filled agricultural ponds or reservoirs to include a water supply impact analysis, which would be subject to peer review by a qualified hydrogeologist. It would also require projects to incorporate all feasible design measures and management strategies to minimize evaporative water loss. Ponds and reservoirs located in an LOS III groundwater basin would be required to offset evaporative water loss at a ratio of at least 1:1.

No new agricultural ponds have been submitted since the urgency ordinance took effect. There are currently two agricultural ponds in process with the Upper-Salinas Las Tablas RCD. Both of these projects would require major grading permits from the County. Staff is working with the RCD to use as much existing information as possible to minimize duplicative work in the permitting of these projects.

OTHER AGENCY INVOLVEMENT/IMPACT

Staff from County Counsel's office and Agricultural Commissioner's Office, have participated in meetings about the development of the urgency ordinance. Since adoption of the urgency ordinance, Planning staff has met with representatives of both RCDs to discuss the ordinance.

FINANCIAL CONSIDERATIONS

This staff report was prepared under the Department's current budget. If the Board of Supervisors directs staff to prepare a permanent ordinance, budget and staffing will be presented to your Board in October 2016 during the Department's priorities report. This discussion will take into account the Department's increased workload due to elimination of the Alternative Review Program.

RESULTS

Adoption of the extension to the interim zoning/urgency ordinance will extend the urgency ordinance for a period of 22 months and 15 days, through and until July 14, 2018. The urgency ordinance prohibits the approval of new agricultural ponds and reservoirs in the inland area (does not include the Coastal Zone) of the unincorporated County under the Alternative Review Program and establishes application content and review criteria for agricultural ponds and reservoirs.

This is consistent with providing a prosperous and well-governed, safe, healthy and livable community.

ATTACHMENTS

1. Attachment 1 - Proposed Urgency Ordinance Extension Ordinance
2. Attachment 2 - Board of Supervisors Staff Report - July 15, 2016
3. Attachment 3 - Adopted Urgency Ordinance No. 3326
4. Attachment 4 - Environmental Determination